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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

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SPECIAL CIVIL APPLICATION No 3778 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the judgement?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

INDIAN PETRO CHEMICALS CORPN. LTD.
Versus
MAHMAD RASULBHAI DIVAN

Appearance:
MR SN SHELAT for Petitioner
MR SHALIN MEHTA for Respondent/s

CORAM : MR.JUSTICE JAYANT PATEL

Date of decision: 22/02/2002

ORAL JUDGEMENT

This Special Civil Application is preferred against the judgment and award dated 25th March 1991 passed by the Labour Court, Vadodara, in Reference (LCV) No.614 of 1982 whereby the Labour Court has directed reinstatement of the respondent in service with backwages.

2. This Court had, initially, on 11.6.1991, issued Rule and the notice as to interim relief was made returnable on 16.7.1991. Thereafter on 22.7.1991, the matter was heard for interim relief and no stay against the reinstatement in service of the respondent was granted and as regards the backwages are concerned, the stay was granted on condition of depositing 50% of the backwages payable under the award.

3. Today, when the matter is being taken up for final hearing, Mr.S.N.Shelat appearing for the petitioner has stated and declared before the Court that the amount of 50% backwages amounting to Rs.95,286/- has already been deposited by the petitioner in the Labour Court and Mr.Shalin Mehta appearing for the respondent states before the Court that though this Court had passed the order on 22.7.1991 permitting the respondent workman to withdraw the amount of 50% of the backwages which was ordered to be deposited, on account of non-availability of the security to the satisfaction of the Court, the respondent workman has not been able to withdraw the said amount and as a result thereof, the said amount of Rs.95,286/- is even lying today before the Labour Court as the deposit. However, he stated that the respondent workman has continued to withdraw the interest which had accrued on the said amount and he was being paid the same from time to time. The aforesaid statement made by Mr.Shalin Mehta is upon the instructions from his clients who are the legal heirs of the deceased respondent workman.

4. When the matter was to be finally heard, Mr.Shalin Mehta, after getting instructions from his clients states that the respondent workman has expired and as a result thereof, though he was reinstated in service, he had continued thereafter, but now since he has expired, the Court may not be required to examine the question as to whether the reinstatement was rightly

given by the Labour Court or not. He further states that so far as the backwages are concerned, his clients would be satisfied if the amount of backwages which ordered to be deposited, i.e. 50% of the total backwages is maintained and his clients are ready to forego the balance amount of 50% of the backwages which they were otherwise entitled to recover pursuant to the award of the Labour Court. Mr.S.N.Shelat appearing for the petitioner submits that the petitioner is agreeable to the arrangement that if the award of the Labour Court is substituted by maintaining the reinstatement and 50% of the backwages and submits that the final order may be passed by this Court accordingly upon the consent of the parties.

5. Considering the aforesaid facts and circumstances placed before the Court, it is hereby ordered that the judgment and award dated 25.3.1991 passed by the Labour Court shall stand modified to the effect that the petitioner was required to reinstate the respondent workman in service and the respondent workman shall be entitled to only 50% of the backwages. However, at this stage, Mr.Shalin Mehta appearing for the respondents, who are newly added being heirs of the deceased respondent, submitted that the liberty may be granted to his clients to withdraw the amount of 50% of the backwages which has been already deposited by the petitioner pending this petition. It goes without saying that since the petition is being disposed of and the workman has become entitled to the amount of 50% of the backwages which is calculated by both the sides and which comes to Rs.95,826/-, the respondents would be entitled to the same. Therefore, as a consequence, the respondents will be at liberty to withdraw the amount of Rs.95,826/- (Rupees Ninety-five thousand eight hundred and twenty-six only) lying with the Labour Court as deposit and the said amount shall be paid to the newly added respondents by way of Account Payee Cheque within a period of one week from the receipt of the writ of this order.

In the result, the petition is partly allowed. Rule is made to the above extent only. Direct service is permitted.

(Jayant Patel, J.)

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